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DECISION of the Board of Selectmen (hereinafter the Board) on the petition of Concord Connection LLC (hereinafter the Petitioner) for the property located at 136 Main Street, Acton, Massachusetts. Said property is shown on Acton Town Atlas Map H2A Parcel 21.

This Decision is in response to an application submitted to the Board on December 20, 2002 by the Petitioner for a Site Plan Special Permit under Section 10.4 of the Acton Zoning Bylaw (hereinafter the Bylaw) to construct a four-unit apartment building and a office/retail building and associated parking.

After causing notice of the time and place of the public hearing and of the subject matter thereof to be published, posted and mailed to the Petitioner, abutters and other parties in interest as required by law, the hearing was called to order on February 10, 2003 at 7:30 P.M. and continued until March 24, 2003 at 7:30 P.M. in the Selectmen's Hearing Room at the Acton Town Hall. The hearing was again continued until April 7, 2003 in "Common C at the Acton/Boxborough High School on Charter Road. Board members William Shupert III, F. Dore' Hunter, Peter Ashton, and Walter Foster were present throughout the proceedings.

The record of the proceedings and submissions upon which this permit is based may be referred to in the Office of the Town Clerk, or the Office of the Board.

Exhibit I

A properly executed application for Site Plan approval received December 20, 2002, a booklet containing a certified abutters list, USE description, other permits, record plan, drainage calculations, water balance calculations, earth removal calculations and a traffic study. Three set of engineered plans dated December 6, 2002 revised March 4 & 13, 2003. Landscape plans dated July 16, 2001 revised 3/13/03 and a six sheet set of building plans. Two letters from Stamski and McNary, Inc. dated March 14, 2003 and April 1, 2003.

Exhibit II

Interdepartmental Communication (IDC) from the Town Manager to the Town Staff requesting comments. The following IDC's were received:

1. Building Commissioner dated February 3, and March 18, 2003
2. Town Planner dated January 16, 2003
3. Fire Chief dated January 27, 2003
4. Municipal Properties Director dated December 30, 2002
5. Engineering Administrator dated January 24, 2003
6. Health Director dated January 16, 2003
7. Water District dated January 7, 2003
8. Recreation Director dated December 27, 2002
9. Transportation Advisory Committee dated January 23, 2003
10. Iron Work Farm dated February 10, and April 4, 2003

Exhibit I is hereinafter referred to as the Plan

1.0 Findings and Conclusions

Based upon its review of the exhibits and records of the proceedings, the Board found and concluded that:

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- 1.1 The site is located in South Acton Village Zoning District and Zone 4 of the Groundwater Protection District. The use is allowed.
- 1.2 The applicant has offered at the request of the Planning Department to construct two parking spaces on Main Street. The Board finds that it would be a traffic hazard to have spaces along Main Street and they should not be built.
- 1.3 The Town Highway Department is proposing to reset the granite curb and construct new sidewalks along the frontage. If the work as shown on the revised plan is not completed by the Petitioner in a timely manner and the Highway Department reconstructs the sidewalk and curb the Petitioner has agreed to provide a gift to the town of \$1,000 to offset the town cost.
- 1.4 Under section 10.4.3.9 of the Bylaw the Board must find the proposed buildings and structures are related harmoniously to the terrain and to the scale and architecture of the existing buildings in the village. The Board finds the plans as revised are appropriate for the village. It is noted this site is not in the Historic District.
- 1.5 The numbering of the buildings shall be approved by the Engineering Department. The dumpster shall be located to provide easier access for the driver of the dumpster truck.
- 1.6 The plan provides for the existing building to be connected to the Town sewer but does not provide a time for such. The Board finds the connection shall be made prior to the occupancy of any new building.
- 1.7 The Plan as herein modified:
 - Will protect the neighborhood and the Town against seriously detrimental or offensive USES on the site and against adverse effects on the natural environment.
 - Will provide for convenient and safe vehicular and pedestrian movement and that the locations of driveway openings are convenient and safe in relation to vehicular and pedestrian traffic circulation including emergency vehicles, on or adjoining the site.
 - Will provide an adequate arrangement of parking and loading spaces in relation to the proposed USES of the premises.
 - Will provide adequate methods of disposal of refuse or other wastes resulting from the USES permitted on the site.
 - Is consistent with the Master Plan.
 - Is in harmony with the purpose and intent of this Bylaw.
 - Will not be detrimental or injurious to the neighborhood in which it is to take place.
 - Is appropriate for the site and complies with all applicable requirements of this Bylaw.

Therefore, the Board voted to **GRANT** the requested Site Plan Special Permit subject to and with the benefit of the following Plan modifications, conditions and limitations.

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2.0 Plan Modifications

Prior to the issuance of a Building Permit or the start of any construction on the site, the Petitioner shall cause the Plan to be revised to show the following additional, corrected or modified information. The Building Commissioner shall not permit any construction activity to begin on the site until and unless he finds that the Plan is revised to include the following additional, corrected or modified information. Except where otherwise provided, all such information shall be subject to the approval of the Building Commissioner. Where approvals are required from persons other than the Building Commissioner, the Petitioner shall be responsible for providing a written copy of such approvals to the Building Commissioner before the Commissioner shall issue any Building Permit or permit any construction on the site. The Petitioner shall submit five copies of the final plans as approved for construction by the Building Commissioner to the Building Commissioner prior to the issuance of a Building Permit.

- 2.1 The plan shall be revised to not have parking along Main Street. It shall also show the revised location for the dumpster.

3.0 Conditions

- 3.1 The Petitioner shall provide a gift in the sum of \$1,000 at the time of the building permit if the Town has already rebuilt the curb and sidewalk.
- 3.2 The existing building shall be connected to the town sewer prior to occupancy of any new building.
- 3.3 Prior to occupancy or use of the new building, an as-built plan shall be supplied by the engineer of record certifying the project was built according to the approved documents. The as-built plan shall show all pavement, building and drainage structure locations above and below grade in their true relationship to lot lines, and include appropriate grades and elevations. In addition to the engineer of record, said plan shall be certified by a Mass. Registered Land Surveyor.

4.0 Limitations

The Authority granted to the Petitioner by this permit is limited as follows:

- 4.1 This permit applies only to the site, which is the subject of this petition. All construction shall be conducted in accordance with the terms of this permit and shall be limited to the improvements shown on the Plan.
- 4.2 There shall be no further development of this site without written consent of the Board of Selectmen as outlined within the Acton Zoning Bylaw.
- 4.3 This Decision applies only to the requested Site Plan Special Permit. Other permits or approvals required by the Acton Zoning Bylaw, other governmental boards, agencies or bodies having jurisdiction shall not be assumed or implied by this Decision.
- 4.4 No approval of any indicated signs or advertising devices is implied by this Decision, all nonconforming signs shall be removed prior to the issuance of the Building Permit.
- 4.5 The hauling of earth to and from the site shall be restricted to the hours between 9:00 AM and 4:00 PM Monday through Saturday.

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- 4.6 The foregoing restrictions are stated for the purpose of emphasizing their importance but are not intended to be all-inclusive or to negate the remainder of the Acton Zoning Bylaw.
- 4.7 This Site Plan Special Permit shall lapse on April 28, 2005 unless work approved by this permit has commenced except for good cause. Any request for extensions shall be made at least thirty (30) days prior to expiration. The Board reserves the right to amend the permit by its own or at the request of the Petitioner with or without a new hearing.

5.0 **Appeals**

Any person aggrieved by this Decision may appeal pursuant to the General Laws, Chapter 40A, Section 17 within 20 days after the filing of this Decision with the Acton Town Clerk.

Witness our hand this day of April ,2003

Walter Foster, Chairman

I, Christine Joyce, hereby certify that this is a true copy of the Decision of the Board of Selectmen.

Christine Joyce, Recording Secretary

Date filed with Town Clerk

Edward J. Ellis, Town Clerk

TO WHOM IT MAY CONCERN: This is to certify that the 20 day appeal period on the Decision of Concord Connection LLC. has passed and there have been no appeals made to this office.

Date

Edward J Ellis, Town Clerk

cc: Petitioner
Building Commissioner
Planning Board
Engineering
Conservation
Director of Municipal Properties
Board of Health
Town Clerk
Planning Boards - Concord, Littleton, Westford, Maynard, Carlisle, Boxboro, Stow, Sudbury